

## Federal Acquisition Regulation

## 23.905

### 23.804 Contract clauses.

Except for contracts that will be performed outside the United States and its outlying areas, insert the clause at:

(a) 52.223-11, Ozone-Depleting Substances, in solicitations and contracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances.

(b) 52.223-12, Refrigeration Equipment and Air Conditioners, in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers.

[61 FR 31645, June 20, 1996, as amended at 68 FR 28083, May 22, 2003]

### Subpart 23.9—Contractor Compliance With Toxic Chemical Release Reporting

SOURCE: 60 FR 55307, Oct. 30, 1995, unless otherwise noted.

#### 23.901 Purpose.

This subpart implements the requirements of Executive Order (E.O.) 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

[68 FR 43869, July 24, 2003]

#### 23.902 General.

(a) The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and the Pollution Prevention Act of 1990 (PPA) established programs to protect public health and the environment by providing the public with important information on the toxic chemicals being released by manufacturing facilities into the air, land, and water in its communities.

(b) Under EPCRA section 313 (42 U.S.C. 11023), and PPA section 6607 (42 U.S.C. 13106), the owner or operator of certain manufacturing facilities is required to submit annual reports on toxic chemical releases and waste management activities to the Environmental Protection Agency (EPA) and

the States. See EPA's Web site at <http://www.epa.gov/tri> for guidance.

[60 FR 55307, Oct. 30, 1995, as amended at 61 FR 41474, Aug. 8, 1996; 68 FR 43869, July 24, 2003]

#### 23.903 Applicability.

(a) This subpart applies to all competitive contracts expected to exceed \$100,000 and competitive 8(a) contracts.

(b) This subpart does not apply to—

(1) Acquisitions of commercial items as defined in part 2; or

(2) Contractor facilities located outside the United States and its outlying areas.

[60 FR 55307, Oct. 30, 1995, as amended at 61 FR 41474, Aug. 8, 1996; 68 FR 28083, May 22, 2003; 68 FR 43869, July 24, 2003]

#### 23.904 Policy.

(a) It is the policy of the Government to purchase supplies and services that have been produced with a minimum adverse impact on community health and the environment.

(b) Federal agencies, to the greatest extent practicable, shall contract with companies that report in a public manner on toxic chemicals released to the environment.

[60 FR 55307, Oct. 30, 1995. Redesignated at 68 FR 43869, July 24, 2003]

#### 23.905 Requirements.

(a) E.O. 13148 requires that solicitations for competitive contracts expected to exceed \$100,000 include, to the maximum extent practicable, as an award eligibility criterion, a certification by an offeror that, if awarded a contract, either—

(1) As the owner or operator of facilities to be used in the performance of the contract that are subject to Form R filing and reporting requirements, the offeror will file, and will continue to file throughout the life of the contract, for such facilities, the Toxic Chemical Release Inventory Form (Form R) as described in EPCRA sections 313 (a) and (g) and PPA section 6607; or—

(2) Facilities to be used in the performance of the contract are exempt from Form R filing and reporting requirements because the facilities—